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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,834	01/15/2004	Jim Bumgardner	PDT-1321.02 US	1833
23410	7590	03/08/2006	EXAMINER	
Vista IP Law Group LLP 2040 MAIN STREET, 9TH FLOOR IRVINE, CA 92614			VENT, JAMIE J	
			ART UNIT	PAPER NUMBER
			2616	
DATE MAILED: 03/08/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/707,834	BUMGARDNER ET AL.	
	Examiner	Art Unit	
	Jamie Vent	2616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3,5-7,15 and 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-7,15 and 17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Terminal Disclaimer***

The terminal disclaimer filed on January 15, 2004 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of July 6, 2004 has been reviewed and is accepted. The terminal disclaimer has been recorded.

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on December 12, 2005 has been entered.

***Response to Arguments***

Applicant's arguments filed December 12, 2005 have been fully considered but they are not persuasive. In response to applicant's argument on page 8 that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case,

Knudson et al discloses a recording system wherein the recording events are programmed through a program guide. The system provides proper recording times for scheduling through the program guide; however, fails to allow the program guide to prioritize time slots and thus provides prioritizing of recording events, as disclosed by Marsh. The use of prioritizing time slots, as taught by Marsh in Column 10 Lines 1-34, allows for the system to prioritize time slots and events. Therefore by using the prioritizing timeslot system of Marsh in combination of the recording program guide of Knudson et al provides a system that properly records events from the program guide in a prioritized manner and thus meets the limitation.

On page 9 applicant argues that Knudson et al in view of Marsh fails to teach the following limitation "receiving multiple broadcast signals from corresponding multiple channels substantially simultaneously" as recited in claims 1, 3, 5, 6, 15, and 17. It is noted Knudson et al shows in Figure 1 a television distribution center wherein multiple channels are broadcasted simultaneously as further disclosed in Column 4 Lines 40+. Additionally, Marsh et al discloses the receiving of multiple broadcast signals as seen in Figure 1 the distribution network and additionally described in Column 5 Lines 10+ and thereby both references meet the limitation.

On page 10 applicant argues that Knudson et al in view of Marsh fails to teach the following limitation "a first one of said timeslots including a user extended lead timeslot or a user extended trail timeslot having a first priority, a second one of said timeslots including a core timeslot having a second priority. Marsh et al discloses a system wherein timeslots are adjusted in priority. As described in Column 10 Lines 1-

34 each timeslot is given a priority and if a conflict occurs the program will reset/reprogram the recording of the timeslot or generate a user-alert message warning the user of the problem. Thereby the timeslots are given priority on which is to be reset and reprogrammed and what to alert the user to as further seen in Figure 5 and thereby meets the limitation.

On page 12, applicant argues that there is no motivation that Knudson in view of Marsh in further view Barton is not combinable due to Knudson and Marsh having a different recording medium than that of Barton. It is well known in the art various recording mediums are integrated within recording systems to achieve various processes such as conflict/solution schemes to time-warping systems. It is further noted that Barton shows in Figure 13 the integration of a various recording mediums, which include a VCR.

On page 13, applicant further argues that Knudson fails to disclose the following limitation "determining a conflict exists if the first number is less than the second number" as recited in Claim 7. It is noted Figure 4 shows a conflict between recording of programs on channels 4 and furthermore the first program Figure 4 element 82 has a lesser priority as illustrated by the lesser number over the second program element 84. Additionally as seen in Figure 5 the elements 86 and 88 have a conflict wherein the determining of the conflict is resolved as described in Column 7 Lines 58+ through Column 8 Lines 1-5. Although, all of applicants points are understood the examiner can not agree and therefore the rejection is maintained.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 5, 6, 15, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al (US 6,141,488) in view of Marsh et al (US 6,208,799).

**[claims 1, 3, 15 & 17]**

In regard to Claims 1, 3, 15, and 17, Knudson et al discloses a video recorder which has a method for transferring a broadcast signal to a storage device with an additional computer program comprising:

- Receiving multiple broadcast signals from corresponding multiple channels substantially simultaneously (Figure 1 shows a television distribution center wherein multiple channels are broadcasted simultaneously as disclosed in Column 4 Lines 40+)
- Receiving instructions to transfer two or more timeslots on one or more channels to said storage device, a first one of said timeslots including a user extended lead timeslot or a user extended trail timeslot (Figure 3 receives various instructions regarding various timeslots and channels from the user who receives information about the timeslots and channels from Figure 2. Furthermore, it is well known in the art that in the recording environment, such as a VCR, allows the user to manually set timeslots due to personal recording preferences. Thereby meeting the limitations of user extended trail and lead timeslots);

- Determining if said instructions cause a conflict (Figure 3 Element 70 a conflict is determined);
- Determining one or more solutions to said conflict, at least partly by considering the multiple broadcast signals (Figure 3 Elements 72, 74, and 76 are solutions to the conflict and further described in Column 2 Lines 45+);
- Providing a user an opportunity to choose one of said solutions to said conflict (Figure 3 Element 72 and 74 allows user to choose solution to conflict); and
- Resolving said conflict automatically, if said user does not choose one of said solutions, by choosing either said first or second timeslot (Figure 3 Element 76 no response from user prompts system to automatically resolve conflict);  
however, fails to disclose
  - the timeslots having a first priority, a second one of said time slots including a core timeslot having a second priority.

Marsh et al discloses a system wherein timeslots are adjusted in priority as described in Column 10 Lines 1-34. It is further seen the priority adjustments are made depending on set priority setting as further seen in Figure 5. Thereby allowing timeslots to record based on priorities that the user sets within the system to insure that the proper programs are recorded. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use the recording system discloses, Knudson et al, and incorporate that timeslots having various priorities, as disclosed by Marsh et al.

**[claim 5]**

In regard to Claim 5, Knudson et al discloses a method for transferring a broadcast signal to a storage device, as previously disclosed in Claim 1, with the additional limitation of the first type is a user extended trail time slot less than a fixed interval and said second type is a core time



slot, further comprising choosing said second type as having higher priority (Column 7 Lines 45+ states when the one-minute buffer segments/user extended trail time slots allow for recording of the program in its entirety; however, it can cause the beginning of the second program's core time slot to be lost until the buffer is complete. As seen in Figure 5, the system eliminates the trailing buffer/user extended trail time slot of a fixed interval when recording consecutive programs in order to allow complete recording of the second type and giving the core time slot priority.)

**[claim 6]**

In regard to Claim 6, Knudson et al discloses method for transferring a broadcast signal to a storage device, as previously disclosed in Claim 1, with the additional limitation that transferring a broadcast signal to a storage device further comprises:

- Obtaining and examining each timeslot (Figure 7a Element 102);
- Establishing cumulative priority for each of said solutions based on each timeslot (Figure 7a Element 104); and
- Determining and choosing one or two lowest priority solutions to said conflict based on cumulative priority and present to user (Figure 7a Elements 106 and 108).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Knudson et al (US 6,141,488) in view of Marsh et al (US 6,208,799) in further view of Barton et al (US 6,233,389).

**[claim 7]**

In regard to Claim 7, Knudson et al discloses a step of determining if said instructions cause a conflict comprises:



- Determining a second number of timeslots to be transferred to said storage device (Figure 3 receives various instructions regarding various timeslots and channels from the user who receives information about the timeslots and channels from Figure 2 thereby determining additional timeslots to be transferred to the storage device as described in Column 7 Lines 40+);
- Determining a conflict exists if said first number is less than said second number (Figure 4 shows a conflict in recording between channel 4 and 5. It is determined that the first program Figure 4 element 82 has less priority (a lesser number) over element 84 therefore, allowing the second program to record the entire program as seen in Figure 5 elements 86 and 88 and described in Column 7 Lines 58-67 and Column 8 Lines 1-5);

However, lacks to disclose a method of determining a first number of tuners available in the system. Barton et al discloses a scheduling system incorporating multiple inputs as seen in Figure 2 elements 201-204. As further described in Column 4 Lines 15-23 it is determined how many multiple input sections (tuners) are present in the system by the media switch 205. By incorporating multiple tuners allow for the capability of recording multiple programs from multiple channels at the same program time.

Therefore, it would be obvious to one skilled in the art at the time of the invention to have a storage device with conflict resolution of programming of channels, as disclosed by Knudson et al in view of Marsh, and incorporate a system which has a multiple inputs (tuners), as disclosed by Barton et al.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to hot

whose telephone number is 571-272-7384. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. Effective July 15, 2005, the Central Fax Number will change to 571-273-8300. Faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jamie Vent  
3/6/06

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Application/Control Number: 10/707,834  
Art Unit: 2616